

AMENDED IN ASSEMBLY AUGUST 7, 2012

AMENDED IN ASSEMBLY JUNE 27, 2012

AMENDED IN ASSEMBLY JUNE 21, 2012

AMENDED IN ASSEMBLY MAY 22, 2012

AMENDED IN ASSEMBLY JULY 14, 2011

AMENDED IN SENATE APRIL 25, 2011

SENATE BILL

No. 249

Introduced by Senator Yee

(Principal coauthor: Senator Steinberg)

~~(Coauthor: Senator)~~ **Coauthors: Senators De León and Hancock**

~~(Coauthor: Assembly Member)~~ *Coauthors: Assembly Members Feuer
and Portantino)*

February 10, 2011

An act to amend Section 31100 30515 of, to amend, repeal, and add Section 30800 of, and to add Sections 30527 and 30618 to, the Penal Code, relating to firearms.

LEGISLATIVE COUNSEL'S DIGEST

SB 249, as amended, Yee. ~~Firearms: assault weapon conversion kits.~~
Assault weapons.

Existing law, with certain exceptions, prohibits the possession of an assault weapon, as defined, and makes violations subject to criminal penalties. *Existing law defines a firearm as an assault weapon, in part, based upon whether it has a detachable magazine.*

This bill would define "detachable magazine" for this purpose to mean any ammunition feeding device that can be removed from the

firearm without disassembly of the firearm action, and to include a magazine that may be detached from the firearm by depressing a button on the firearm either with the finger or by use of a tool or a bullet. The bill would declare that these amendments are declaratory of existing law, would direct the Attorney General to adopt regulations, and would make these amendments operative July 1, 2013. By expanding the definition of existing crimes, this bill would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

~~This bill would, commencing July 1, 2013, and with certain exceptions, prohibit any person from importing, making, selling, loaning, transferring, or possessing any conversion kit, as defined, designed solely and exclusively to convert certain firearms with a fixed magazine into firearms with the capacity to accept a detachable magazine and other features making the firearm an assault weapon and would make violations subject to criminal penalties. By creating new crimes, this bill would impose a state-mandated local program.~~

~~Existing law makes possession of an assault weapon a public nuisance, authorizes the Attorney General, district attorney, or city attorney to bring a civil action to enjoin possession of the weapon, authorizes imposition of a civil fine, and, with certain exceptions, requires disposition of the weapon by sale at public auction or by destruction.~~

~~This bill would, commencing July 1, 2013, make possession of a conversion kit a public nuisance, would authorize a civil action to enjoin possession of a conversion kit, would authorize imposition of a civil fine, and, with certain exceptions, would, similarly, require disposition of the conversion kit.~~

~~Existing law authorizes a person to arrange in advance to relinquish an assault weapon to a police or sheriff's department.~~

~~This bill would authorize a person to arrange in advance to relinquish a conversion kit to a police or sheriff's department.~~

~~The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.~~

~~This bill would provide that no reimbursement is required by this act for a specified reason.~~

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: yes.

The people of the State of California do enact as follows:

- 1 *SECTION 1. Section 30515 of the Penal Code is amended to*
2 *read:*
3 30515. (a) Notwithstanding Section 30510, “assault weapon”
4 also means any of the following:
5 (1) A semiautomatic, centerfire rifle that has the capacity to
6 accept a detachable magazine and any one of the following:
7 (A) A pistol grip that protrudes conspicuously beneath the action
8 of the weapon.
9 (B) A thumbhole stock.
10 (C) A folding or telescoping stock.
11 (D) A grenade launcher or flare launcher.
12 (E) A flash suppressor.
13 (F) A forward pistol grip.
14 (2) A semiautomatic, centerfire rifle that has a fixed magazine
15 with the capacity to accept more than 10 rounds.
16 (3) A semiautomatic, centerfire rifle that has an overall length
17 of less than 30 inches.
18 (4) A semiautomatic pistol that has the capacity to accept a
19 detachable magazine and any one of the following:
20 (A) A threaded barrel, capable of accepting a flash suppressor,
21 forward handgrip, or silencer.
22 (B) A second handgrip.
23 (C) A shroud that is attached to, or partially or completely
24 encircles, the barrel that allows the bearer to fire the weapon
25 without burning the bearer’s hand, except a slide that encloses the
26 barrel.
27 (D) The capacity to accept a detachable magazine at some
28 location outside of the pistol grip.
29 (5) A semiautomatic pistol with a fixed magazine that has the
30 capacity to accept more than 10 rounds.
31 (6) A semiautomatic shotgun that has both of the following:
32 (A) A folding or telescoping stock.

(B) A pistol grip that protrudes conspicuously beneath the action of the weapon, thumbhole stock, or vertical handgrip.

(7) A semiautomatic shotgun that has the ability to accept a detachable magazine.

(8) Any shotgun with a revolving cylinder.

(b) The Legislature finds a significant public purpose in exempting from the definition of “assault weapon” pistols that are designed expressly for use in Olympic target shooting events. Therefore, those pistols that are sanctioned by the International Olympic Committee and by USA Shooting, the national governing body for international shooting competition in the United States, and that were used for Olympic target shooting purposes as of January 1, 2001, and that would otherwise fall within the definition of “assault weapon” pursuant to this section are exempt, as provided in subdivision (c).

(c) “Assault weapon” does not include either of the following:

(1) Any antique firearm.

(2) Any of the following pistols, because they are consistent with the significant public purpose expressed in subdivision (b):

MANUFACTURER	MODEL	CALIBER
BENELLI	MP90	.22LR
BENELLI	MP90	.32 S&W LONG
BENELLI	MP95	.22LR
BENELLI	MP95	.32 S&W LONG
HAMMERLI	280	.22LR
HAMMERLI	280	.32 S&W LONG
HAMMERLI	SP20	.22LR
HAMMERLI	SP20	.32 S&W LONG
PARDINI	GPO	.22 SHORT
PARDINI	GP-SCHUMANN	.22 SHORT
PARDINI	HP	.32 S&W LONG
PARDINI	MP	.32 S&W LONG
PARDINI	SP	.22LR
PARDINI	SPE	.22LR
WALTHER	GSP	.22LR
WALTHER	GSP	.32 S&W LONG
WALTHER	OSP	.22 SHORT
WALTHER	OSP-2000	.22 SHORT

(3) The Department of Justice shall create a program that is consistent with the purposes stated in subdivision (b) to exempt new models of competitive pistols that would otherwise fall within the definition of “assault weapon” pursuant to this section from being classified as an assault weapon. The exempt competitive pistols may be based on recommendations by USA Shooting consistent with the regulations contained in the USA Shooting Official Rules or may be based on the recommendation or rules of any other organization that the department deems relevant.

(d) (1) *For the purposes of this section, “detachable magazine” means any ammunition feeding device that can be removed from the firearm without disassembly of the firearm action. “Detachable magazine” includes, but is not limited to, a magazine that may be detached from the firearm by depressing a button on the firearm either with the finger or by use of a tool or a bullet.*

(2) *The Attorney General shall adopt those rules and regulations that may be necessary or proper to carry out the purposes and intent of this chapter.*

(3) *This subdivision shall become operative on July 1, 2013.*

SEC. 2. *The amendment of Section 30515 of the Penal Code made by Section 1 of this act does not constitute a change in, but is declaratory of, existing law.*

SEC. 3. *No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs that may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.*

~~SECTION 1. Section 30527 is added to the Penal Code, to read:~~

~~30527. (a) As used in this chapter a “conversion kit” means any part that, when affixed to a firearm with a fixed magazine, is designed solely and exclusively to convert that firearm into an assault weapon as defined by one of the following:~~

~~(1) Paragraph (1) of subdivision (a) of Section 30515.~~

~~(2) Paragraph (4) of subdivision (a) of Section 30515.~~

~~(3) Paragraph (7) of subdivision (a) of Section 30515.~~

~~(b) This section shall become operative on July 1, 2013.~~

~~SEC. 2.— Section 30618 is added to the Penal Code, to read:~~

~~30618. (a) No person shall import into this state, make, sell, loan, transfer, or possess a conversion kit.~~

~~(b) For purposes of this article, if more than one conversion kit is involved in any violation of this article, there shall be a distinct and separate offense for each violation.~~

~~(c) The provisions of this section are cumulative and shall not be construed as restricting the application of any other law. However, an act or omission punishable in different ways by different provisions of law shall not be punished under more than one provision.~~

~~(d) Subdivision (a) shall not apply to or affect any of the following:~~

~~(1) The sale to, transfer to, or loan to, importation of, or possession of a conversion kit by the Department of Justice, police department, sheriffs' offices, marshals' offices, the Department of Corrections and Rehabilitation, the Department of the California Highway Patrol, district attorneys' offices, the Department of Fish and Game, the Department of Parks and Recreation, or the military or naval forces of this state or of the United States, or any federal law enforcement agency for use in the discharge of their official duties.~~

~~(2) The transfer by or loan by the entities listed in paragraph (1) of a conversion kit to sworn peace officer members of those agencies for law enforcement purposes.~~

~~(3) The possession of conversion kits by sworn peace officer members of those agencies specified in paragraph (1) for law enforcement purposes.~~

~~(4) The manufacture of, possession of, or importation of a conversion kit by any person who is issued a permit pursuant to Section 31005.~~

~~(5) The sale by, loan of, or transfer of a conversion kit by a person who is issued a permit pursuant to Section 31005 to any of the following:~~

~~(A) Exempt entities listed in paragraph (1).~~

~~(B) Entities and persons who have been issued permits pursuant to Section 31005.~~

~~(C) Federal military and law enforcement agencies.~~

~~(D) Law enforcement and military agencies of other states.~~

1 ~~(E) Foreign governments and agencies approved by the United~~
2 ~~States State Department.~~

3 ~~(6) A person who is the executor or administrator of an estate~~
4 ~~that includes a conversion kit that is possessed in accordance with,~~
5 ~~and disposed of as authorized by, the probate court, if the~~
6 ~~disposition is otherwise permitted by this section.~~

7 ~~(7) The possession of and sale or transfer of a conversion kit~~
8 ~~by a person incident to relinquishing the conversion kit pursuant~~
9 ~~to Section 31100.~~

10 ~~(8) The transfer by a person authorized to possess a conversion~~
11 ~~kit by this section to any licensed gun dealer for the purposes of~~
12 ~~servicing or repair from any person who is legally entitled to~~
13 ~~possess it pursuant to this section.~~

14 ~~(9) The possession of a conversion kit by any licensed gun dealer~~
15 ~~who received the conversion kit pursuant to paragraph (8).~~

16 ~~(10) The transfer of possession of a conversion kit received by~~
17 ~~any licensed gun dealer pursuant to paragraph (9) to a gunsmith~~
18 ~~for purposes of accomplishing service or repair of that conversion~~
19 ~~kit. A transfer is permissible only to the following persons:~~

20 ~~(A) A gunsmith who is in the dealer's employ.~~

21 ~~(B) A gunsmith with whom the dealer has contracted for~~
22 ~~gunsmithing services.~~

23 ~~(11) The transfer of possession of any conversion kit by any~~
24 ~~person referred to in paragraph (10) to either the licensed gun~~
25 ~~dealer from whom it was received or to a person otherwise referred~~
26 ~~to in paragraph (10).~~

27 ~~(12) The return of any conversion kit initially received by any~~
28 ~~licensed gun dealer pursuant to this section to the person from~~
29 ~~whom he or she received it if that recipient is legally entitled to~~
30 ~~possess that conversion kit pursuant to this section.~~

31 ~~(13) The possession of a conversion kit by the registered owner~~
32 ~~of an assault weapon if the conversion kit is possessed at that~~
33 ~~person's residence, place of business, or other property owned by~~
34 ~~that person.~~

35 ~~(e) A violation of this section is punishable as follows:~~

36 ~~(1) Where the person imports into this state, makes, sells, loans,~~
37 ~~or transfers a conversion kit, that person shall be punished by a~~
38 ~~fine of one thousand dollars (\$1,000), imprisonment in a county~~
39 ~~jail for a period not to exceed one year, or by both that fine and~~
40 ~~imprisonment.~~

1 ~~(2) In all cases not specified in paragraph (1), as a misdemeanor.~~

2 ~~(f) This section shall become operative on July 1, 2013.~~

3 ~~SEC. 3. Section 30800 of the Penal Code is amended to read:~~

4 ~~30800. (a) (1) Except as provided in Article 2 (commencing~~
5 ~~with Section 30600), possession of any assault weapon or of any~~
6 ~~.50 BMG rifle in violation of this chapter is a public nuisance,~~
7 ~~solely for purposes of this section and subdivision (c) of Section~~
8 ~~18005.~~

9 ~~(2) The Attorney General, any district attorney, or any city~~
10 ~~attorney, may, in lieu of criminal prosecution, bring a civil action~~
11 ~~or reach a civil compromise in any superior court to enjoin the~~
12 ~~possession of the assault weapon or .50 BMG rifle that is a public~~
13 ~~nuisance.~~

14 ~~(b) Upon motion of the Attorney General, district attorney, or~~
15 ~~city attorney, a superior court may impose a civil fine not to exceed~~
16 ~~three hundred dollars (\$300) for the first assault weapon or .50~~
17 ~~BMG rifle deemed a public nuisance pursuant to subdivision (a)~~
18 ~~and up to one hundred dollars (\$100) for each additional assault~~
19 ~~weapon or .50 BMG rifle deemed a public nuisance pursuant to~~
20 ~~subdivision (a).~~

21 ~~(c) Any assault weapon or .50 BMG rifle deemed a public~~
22 ~~nuisance under subdivision (a) shall be destroyed in a manner so~~
23 ~~that it may no longer be used, except upon a finding by a court, or~~
24 ~~a declaration from the Department of Justice, district attorney, or~~
25 ~~city attorney stating that the preservation of the assault weapon or~~
26 ~~.50 BMG rifle is in the interest of justice.~~

27 ~~(d) Upon conviction of any misdemeanor or felony involving~~
28 ~~the illegal possession or use of an assault weapon, the assault~~
29 ~~weapon shall be deemed a public nuisance and disposed of pursuant~~
30 ~~to subdivision (c) of Section 18005.~~

31 ~~(e) This section shall become inoperative on July 1, 2013, and,~~
32 ~~as of January 1, 2014, is repealed, unless a later enacted statute,~~
33 ~~that becomes operative on or before January 1, 2014, deletes or~~
34 ~~extends the dates on which it becomes inoperative and is repealed.~~

35 ~~SEC. 4. Section 30800 is added to the Penal Code, to read:~~

36 ~~30800. (a) (1) Except as provided in Article 2 (commencing~~
37 ~~with Section 30600), possession of any assault weapon, any .50~~
38 ~~BMG rifle, or any conversion kit in violation of this chapter is a~~
39 ~~public nuisance, solely for purposes of this section and subdivision~~
40 ~~(c) of Section 18005.~~

1 ~~(2) The Attorney General, any district attorney, or any city~~
2 ~~attorney may, in lieu of criminal prosecution, bring a civil action~~
3 ~~or reach a civil compromise in any superior court to enjoin the~~
4 ~~possession of the assault weapon, .50 BMG rifle, or conversion~~
5 ~~kit that is a public nuisance.~~

6 ~~(b) (1) Upon motion of the Attorney General, district attorney,~~
7 ~~or city attorney, a superior court may impose a civil fine not to~~
8 ~~exceed three hundred dollars (\$300) for the first assault weapon~~
9 ~~or .50 BMG rifle deemed a public nuisance pursuant to subdivision~~
10 ~~(a) and up to one hundred dollars (\$100) for each additional assault~~
11 ~~weapon or .50 BMG rifle deemed a public nuisance pursuant to~~
12 ~~subdivision (a).~~

13 ~~(2) Upon motion of the Attorney General, district attorney, or~~
14 ~~city attorney, a superior court may impose a civil fine not to exceed~~
15 ~~one hundred dollars (\$100) for the first conversion kit deemed to~~
16 ~~be a public nuisance pursuant to subdivision (a) and up to fifty~~
17 ~~dollars (\$50) for each additional conversion kit deemed to be a~~
18 ~~public nuisance pursuant to subdivision (a).~~

19 ~~(c) Any assault weapon, .50 BMG rifle, or conversion kit~~
20 ~~deemed a public nuisance under subdivision (a) shall be destroyed~~
21 ~~in a manner so that it may no longer be used, except upon a finding~~
22 ~~by a court, or a declaration from the Department of Justice, district~~
23 ~~attorney, or city attorney stating that the preservation of the assault~~
24 ~~weapon, .50 BMG rifle, or conversion kit is in the interest of~~
25 ~~justice.~~

26 ~~(d) Upon conviction of any misdemeanor or felony involving~~
27 ~~the illegal possession or use of an assault weapon, the assault~~
28 ~~weapon shall be deemed a public nuisance and disposed of pursuant~~
29 ~~to subdivision (c) of Section 18005.~~

30 ~~(e) Upon conviction of any misdemeanor involving the illegal~~
31 ~~possession or use of a conversion kit, the conversion kit shall be~~
32 ~~deemed a public nuisance and disposed of pursuant to subdivision~~
33 ~~(e) of Section 18005.~~

34 ~~(f) This section shall become operative on July 1, 2013.~~

35 ~~SEC. 5. Section 31100 of the Penal Code is amended to read:~~

36 ~~31100. Any individual may arrange in advance to relinquish~~
37 ~~an assault weapon, a .50 BMG rifle, or a conversion kit to a police~~
38 ~~or sheriff's department. The assault weapon or .50 BMG rifle shall~~
39 ~~be transported in accordance with Sections 16850 and 25610.~~

1 ~~SEC. 6.—No reimbursement is required by this act pursuant to~~
2 ~~Section 6 of Article XIII B of the California Constitution because~~
3 ~~the only costs that may be incurred by a local agency or school~~
4 ~~district will be incurred because this act creates a new crime or~~
5 ~~infraction, eliminates a crime or infraction, or changes the penalty~~
6 ~~for a crime or infraction, within the meaning of Section 17556 of~~
7 ~~the Government Code, or changes the definition of a crime within~~
8 ~~the meaning of Section 6 of Article XIII B of the California~~
9 ~~Constitution.~~

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